

Chapter 3. State Regulatory System

3.1 Development of a State Regulatory System

3.1.1 General

There are two prerequisites for the introduction of a regulatory system. These are:

- a) the provision, in the basic aviation law of the State, for air navigation regulations and the promulgation thereof; and
- b) the establishment of an appropriate State body, herein after referred to as the Civil Aviation Authority (CAA), with the necessary powers to ensure compliance with the regulations.

3.1.2 Basic laws relating to aviation

3.1.2.1 The basic laws of the State relating to aviation should:

- a) authorize the establishment of a CAA to be headed by a chief executive officer, herein after referred to as the Director General of Civil Aviation (DGCA);
- b) make provision for the delegation of the necessary authority and the assignment of corresponding responsibility to the DGCA to develop, issue and revise operating regulations and rules consistent with the air navigation regulations;
- c) make provision for the adoption of operating regulations and rules based on the provisions of the Annexes to the Convention on International Civil Aviation;
- d) make provision for the enforcement of the air navigation regulations and associated operating regulations and rules; and
- e) require all commercial air transport operations to be conducted under State authority and in accordance with any conditions the State may consider applicable in the interests of safety and in accordance with all appropriate treaties and agreements between the State and other States.

3.1.2.2 The operating regulations and rules, referred to in 3.1.2.1 b) above, need frequent revision to keep pace with developments in civil aviation and in aviation safety. This is not possible unless these regulations and rules can be amended rapidly. One possible approach to ensure this would be to place these detailed operating regulations and rules under the authority of the DGCA and thus to not incorporate them in the national civil aviation law.

3.2 Authority of the Director General of Civil Aviation

The air navigation regulations should contain provisions which authorize the DGCA to:

- a) establish a flight operations inspection organization to assist in carrying out the functions and responsibilities of the DGCA's office;
- b) whenever possible, develop, issue and revise operating regulations and rules consistent with the air navigation regulations;

- c) determine whether proposed commercial air transport operations are in the public interest;
- d) determine the technical and financial capability of a prospective operator to conduct the proposed operations with the ground services (e.g. aerodrome, navigation aids, air traffic services, maintenance, etc.) that can be made available;
- e) issue air operator certificates (AOC) with the associated operations specifications necessary to define the characteristics of the particular operation and the aircraft involved; and
- f) withdraw, revoke, suspend or amend an AOC and its associated operations specifications authorizing any operation where the conduct of the operation is considered contrary to the interests of safety, subject to providing the operator with due notice and the opportunity for consultation and appeal.

3.3 Structure of the Civil Aviation Authority

3.3.1 The DGCA should establish an effective CAA organization and employ the necessary qualified personnel to carry out the various functions of that office. Although the scope of the DGCA's responsibilities should not vary substantially from State to State, the structure and size of the CAA organization will vary considerably depending on the number, size and complexity of civil air operations in the State.

3.3.2 In deciding upon the required organizational structure, the DGCA should review the requirements for inspection, certification and surveillance of operators as outlined in the subsequent chapters of this manual in the light of the number and size of potential air operators in the State. In many States it will be necessary to establish within the CAA a "CAA inspectorate" to ensure that the DGCA's responsibilities for the safety of commercial air transport are properly discharged and that the public interest is adequately protected. The establishment and functioning of the CAA inspection organization are discussed in Chapter 5 of this Part.

3.4 Regulations for the Certification of Operators

3.4.1 The State regulations and rules for the operational inspection and certification of operators and for the conduct of subsequent commercial air transport operations should have sufficient detail to ensure that satisfactory compliance will result in the desired level of safety. It should be recognized that, while the scope of the regulations and rules will need to be extensive, it is not feasible or desirable to attempt to cover every conceivable operational detail. The State regulations and rules should provide a framework of positive control and guidance but should allow the operator the flexibility to develop operating instructions for the guidance of personnel on the details essential to the conduct of the operation. This is in accordance with the principle of "operator's responsibility" and helps to facilitate the development of the operating standards and techniques best suited to particular operational circumstances and conditions.

3.4.2 To facilitate compliance and avoid differences in interpretation, State regulations should be written in clear language, using plain language techniques and should be complemented by appropriate guidance material.

Note. — *Guidance on plain language techniques can be obtained from various sources, including the Internet.*

3.4.3 The State regulations and rules need to require the operator to submit detailed operating instructions and procedures, governing the conduct of operations, to the CAA as a basis for certification and the subsequent conduct of operations. The operator's material is required by Annex 6, Part I and Part

III, Section II to be submitted in the form of an operations manual, and a maintenance control manual acceptable to the State of Registry, containing at least the material specified and such other material as the CAA may require. As discussed in Part III of this manual, the operator's operations and maintenance control manuals provide a most important basis for the CAA decision with respect to an application for an AOC.

Note. — Throughout the manual the term “regulations” is used in a generic sense to encompass what may be variously considered by States, but not limited to, as instructions, rules, edicts, directives, sets of laws, requirements, policies and orders. It is a matter for the judgement of individual States, taking into account their responsibilities under the Convention, as to the specific status given to a regulation when it is applied within the State and the penalty assigned in the event of non-compliance.

3.5 Critical elements of a safety oversight system

3.5.1 The process described above has been analyzed and the following critical elements of a State safety oversight system have been identified as follows:

Primary aviation legislation.

Specific operating regulations.

State civil aviation system and safety oversight functions.

Technical personnel qualification and training.

Technical guidance, tools and the provision of safety-critical information.

Licensing, certification, authorization and approval obligations.

Surveillance obligations.

Resolution of safety concerns.

3.5.2 These elements are fully described in Annex 6 — *Operation of Aircraft, Part I — International Commercial Air Transport — Aeroplanes*, Appendix 5, and in the *Safety Oversight Manual (Doc 9734)*, Part A, *The Establishment and Management of a State's Safety Oversight System*. The elements are included as specific items in audits for the ICAO Universal Safety Oversight Audit Programme under the comprehensive systems approach (CSA).

3.6 Safety management

3.6.1 States are required to establish a safety programme in order to achieve an acceptable level of safety, which is itself established by individual States. A State's safety programme is an integrated set of regulations and activities aimed at improving safety. It addresses the conduct of safe operations, not only by aircraft operators but also by aviation service providers, such as air traffic services (ATS) providers, aerodromes and heliports, and aircraft maintenance organizations.

3.6.2 The State safety programme includes activities as diverse as safety regulations, safety oversight, mandatory and voluntary reporting systems, accident and incident investigations, safety data analysis and exchange, safety assurance and safety promotion.

3.6.3 As part of a State's safety programme, it is necessary for the State to require air operators to implement safety management systems acceptable to the State. The requirement for safety management systems also extends to ATS providers, certified aerodrome and heliport operators and approved maintenance organizations.

3.6.4 A full description of the requirements for State safety programmes and operator safety management systems is contained in the *Safety Management Manual (SMM)* (Doc 9859).
